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BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				RUSTEMEYER, BRETT J
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)
	10/512,052	MARUYAMA ET AL.
	Examiner	Art Unit
	BRETT RUSTEMEYER	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 10/21/2005 (New Application).

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-35 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 10/21/2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date 10/21/2004.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application
 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 13 is objected to because of the following informalities:
 - a. Examiner believes the applicant intended to claim "...if the communication state is less than a desired level, the content selecting requesting station selecting a different (or the like) content providing station...", since "a content providing station" has already been defined in claim 1. Appropriate correction is required.
2. Claim 35 is objected to under 37 CFR 1.75(c) as being in improper form because it's multiple dependency upon claims 1, 29, and 30. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 3-6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. Claims 3 and 4 recites the limitation "the content selection station **resuming**...connection with the content providing station", without ever previously mentioning if the connection was paused, stopped, or the like.

- b. Since claims 5 and 6 are dependent from claim 4, they are rejected accordingly.
- c. Claim 10 recites the limitation: “the selection rule...is to reselect a content providing station that has been selected first, *after all the content providing stations targeted for selection are selected*”, which is a contradictory statement.
- d. Claims 13, 14, and 18-22 all recite the limitation: “...is less than a *desired* level...” which contain the highlighted relative term, rendering the claims indefinite.

Claim Rejections - 35 USC § 102

- 5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

- 6. Claims 1-4, 7-14, 16-24, 26, 29-31 and 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by “United States Patent Application Number, “2003/0105763 A1”, invented by Chatfield et al. (hereinafter referred to as “Chatfield”).

Regarding claim 1, Chatfield teaches of a content selection method in which a content selection requesting station selects from among a plurality of content providing stations ([0022]), comprising the steps of:

the content selection requesting station storing a selection rule for selecting from among the content providing stations {See [0028], [0029] and [0032]. Additionally or alternatively, since the end user 103-106 submits his/her preferred service provider from a workstation (See [0034]) to a web server 204, the selection is inherently stored or buffered by the workstation for processing and transmission over the open access network 100};

the content selection requesting station receiving a content selection request entered by an operator ([0033]);

the content selection requesting station selecting one of the content providing stations in accordance with the selection rule (See [0033] with respect to [0028], [0029] and [0032]. When the end user requests a service via the access network 101, said request is performed in accordance with the rule); and

the content selection requesting station transmitting the content selection request to the thus selected one of the content providing stations ([0033]).

Regarding claim 2, Chatfield teaches the method as set forth in claim 1, comprising the step of:

sending back (i.e., providing) a content held by the content providing station, from the content providing station that has received the content selection request, to the content selection requesting station ([0033]).

Regarding claim 3, (Examined with the best understanding of the claim as previously presented in the 112 rejection above)

Chatfield teaches the method as set forth in claim 1, comprising the steps of: the content selection requesting station storing information for specifying a content providing station and an associated content that have been most recently selected by the content selection requesting station {Since the end user 103-106 accesses a provider's offered services and selects his/her preferred services via a workstation (See [0034]), coupled to a web server 204, the end user's workstation stores or buffers information for specifying a content providing station and an associated content that have been recently selected for processing, display, and transmission [0032]}; and

the content selection requesting station resuming, in accordance with the information, connection with the content providing station and the associated content that have been most recently selected by the content selection requesting station ([0033] and [0040]).

Regarding claim 4, (Examined with the best understanding of the claim as previously presented in the 112 rejection above)

Chatfield teaches the method as set forth in claim 1, comprising the step of: the content selection requesting station storing information for specifying a content providing station that has been most recently selected by the content selection requesting station (Please refer to the reasons and citations cited by the Examiner in response to claim 3); the content providing station storing information for specifying an associated content that has been most recently selected by the content selection requesting station {Since the service

provider 107-109 receives the end user's selection through a communication session, and provides said user with their selected service(s) over the open access network 101 [0032], their selection information is inherently stored or buffered for processing, retrieval, and transmission.}; and

resuming, in accordance with these sets of information, connection between the content selection requesting station and the content providing station that has been most recently selected by the content selection requesting station (Please refer to the reasons and citations cited by the Examiner in response to claim 3).

Regarding claim 7, Chatfield teaches the method as set forth in claim 2, wherein:

the content providing station transmits, to the content selection requesting station, information regarding a content that is to send back (i.e., be provided) to the content selection requesting station ([0033]).

Regarding claim 8, Chatfield teaches the method as set forth in claim 2, wherein:

the content providing station transmits, to the content selection requesting station, information regarding a content that is available to be selected next by the content selection requesting station (See FIG. 6 in conjunction with [0054], in which a Video Provider One is a “Preferred Service Provider” and offers (1) Broadcast Video, (2) Local Voice, (3) International Voice, and (4) Internet Access to end users 103-106. In this embodiment, said end user may select to receive service (1) first and access service (2) next in accord with [0032] and [0033]).

Regarding claim 9, Chatfield teaches the method as set forth in claim 2, wherein:

the content providing station transmits, to the content selection requesting station, information regarding a content that is available to be selected by the content selection requesting station ([0033]).

Regarding claim 10, (Examined with the best understanding of the claim based on the previously stated 112 rejection)

Chatfield teaches the method as set forth in claim 1, wherein:

the selection rule regarding the content providing stations, which is stored in the content selection requesting station, is to reselect a content providing station that has been selected first, after all the content providing stations targeted for selection are selected (See [0043] and [0046] with respect to [0028], [0029], [0032], and [0034] as presented in response to claim 1.).

Regarding claim 11, Chatfield teaches the method as set forth in claim 1, comprising the steps of:

if there still remains a content to select, the thus selected one of the content providing stations selecting, in accordance with a predetermined content selection rule, a content to select next, and the thus selected one of the content providing stations transmitting what is contained in the content to select next, to the content selection requesting station ([0032], [0033], in which the content provider is one described by the Examiner in response to claim 8); and

if there remains no content that is to select, the thus selected one of the content providing stations transmitting information that there remains no content to select ([0040], [0047]-[0050] with reference to FIG. 4C).

Regarding claim 12, Chatfield teaches the method as set forth in claim 1, wherein:

when receiving the information that there remains no content to select, the content selection requesting station changes a content providing station connected to the content selection requesting station, in accordance with the selection rule for selecting from among the content providing stations ([0040], [0047]-[0050] with reference to FIG. 4C).

Regarding claim 13, Chatfield teaches the method as set forth in claim 1, comprising the steps of: the content selection requesting station confirming

(i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (See [0046] and additionally or alternatively see [0050]), and

(ii) a response state regarding responding from the thus selected one of the content providing stations ([0046]); and

if the communication state is less than a desired level, the content selecting requesting station selecting a content providing station to select next in accordance with the selection rule for selecting from among the content providing stations (See [0046] and [0047]).

Regarding claim 14, Chatfield teaches the method as set forth in claim 2, wherein: the content providing station confirming

(i) a communication state regarding communication between the content providing station and a content that is to send back (See [0046] and additionally or alternatively see [0050]), and

(ii) a response state regarding responding with respect to the content that is to send back ([0046]); and

if the communication state is less than a desired level, the content providing station sending back a content that is to be selected next in accordance with a predetermined content selection rule (Even though a communication state between a service provider and an end user may be less than a desired level, it may still support a session. Thus, see the reasons and citations made by the Examiner in response to claim 8).

Regarding claim 16, Chatfield teaches the method as set forth in claim 2, comprising the step of:

in a state where a content that the content providing station is about to send back is in use, the content providing station sending back a content that is to be selected next to the content that the content providing station is about to send, in accordance with a predetermined content selection rule (Please refer to the citations and reasons stated by the Examiner in response to claim 8).

Regarding claim 17, Chatfield teaches the method as set forth in claim 16, wherein:

the state where the content is in use is a state where the content is being used by another content selection requesting station, or a state where a user on the content providing station side is using the content without using the content selection requesting station (Service providers inherently provide Internet access, cable television, digital voice, etc. to a plurality of customers simultaneously disclosed in [0023] and [0024]).

Regarding claim 18, Chatfield teaches the method as set forth in claim 1, comprising the step of:

the content selection requesting station confirming

- (i) a communication state regarding communication between the content selection requesting station and the thus selected one of the content providing stations (See [0046] and additionally or alternatively see [0050]), and
- (ii) a response state regarding responding from the thus selected one of the content providing stations ([0046]); and

if the communication state is less than a desired level, the content selection requesting station providing, to the operator, information that the communication state is less than the desired level (See [0050]).

Regarding claim 19, Chatfield teaches the method as set forth in claim 1, comprising the steps of:

the content providing station confirming

(i) a communication state regarding communication between the content providing station and the content thus selected (See [0046] and additionally or alternatively see [0050]), and

(ii) a response state regarding responding with respect to the content thus selected ([0046]);

if the communication state is less than a desired level, the content providing station transmitting, to the content selection requesting station, information that the communication state is less than a desired level (See [0050]);

the content selection requesting station receiving the information ([0050]); and

the content selection requesting station providing, to the operator, information that the communication state between the content providing station and the content thus selected is less than a desired level ([0050]).

Regarding claim 20, Chatfield teaches the method as set forth in claim 13, wherein:

the state where the communication state is less than a desired level is a state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level ([0050]).

Regarding claim 21, Chatfield teaches the method as set forth in claim 13, wherein:

the state where the communication state is less than a desired level is

(i) a state where a station at the other end is not turned on,

- (ii) a state where no response is received because the station at the other end becomes too distant, or
- (iii) a state where the thus selected one of the content providing stations is physically disconnected from the content ([0050]).

Regarding claim 22, Chatfield teaches the method as set forth in claim 18, wherein:

in providing, to the operator, information that the communication state between the content selection requesting station and the selected one of the content providing stations is less than the desired level, when the communication level is as such, the content selection requesting station distinctly informing the operator whether the communication state is

- (A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level ([0050]), or
- (B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end becomes too distant, or (iii) the content is physically disconnected ([0050]).

Regarding claim 23, Chatfield teaches the method as set forth in claim 19, wherein:

in providing, to the operator, information that the communication state between the content selection requesting station and the content thus selected is less than the desired level, when the communication level is as such, the content selection requesting station distinctly informing the operator whether the communication state is

- (A) a communication state where communication is possible but one of electric wave strength, the response state, and a communication error ratio is less than the desired level ([0050]), or
- (B) a communication state where (i) a station at the other end is not turned on, (ii) no response is received because the station at the other end becomes too distant, or the content is physically disconnected ([0050]).

Regarding claim 24, Chatfield teaches the method as set forth in claim 1, comprising the steps of:

transmitting a content switching instruction (i.e., transfer of service) to the content selection requesting station in accordance with an entry of the operator ([0033]); and
transmitting the content switching instruction from the content selection requesting station, which has received the content switching instruction, to a content providing station ([0033]).

Regarding claim 26, Chatfield teaches the method as set forth in claim 1, wherein:

the selection rule is stored only in the content selection requesting station ([0034] and [0057]; wherein the data center 102 is and end user's 103-106 workstation are "a single computer system"); and

the content is held (i.e. restrained from access) only by the content providing station ([0050]).

Regarding claim 29, Chatfield teaches a content selection requesting station which selects a desired content from among contents that a plurality of content providing stations have (See [0023] with [0032]), wherein:

the content selection requesting station transmits a content selection request to the content providing station according to the method as set forth in claim 1 ([0033]).

Regarding claim 30, Chatfield teaches a content providing station which, when selected by a content selection requesting station, transmits, to the content selection requesting station, what is contained in a content that the content providing station has ([0033]), wherein:

the content providing station receives a content selection request from the content selection requesting station according to the method as set forth in claim 1 ([0033]).

Regarding claim 31, Chatfield teaches a content switching instruction device for use in the method as set forth in claim 1, which transmits, to a content selection requesting station, a content switching instruction given by an operator (Please refer to the Examiner's citations and reasons stated in response to claim 1 in conjunction with [0060]).

Regarding claim 33, Chatfield teaches a program for causing a computer to implement the method as set forth in claim 1 (See [0060]-[0064] with respect to citations and reasons stated by the Examiner in response to claim 1).

Regarding claim 34, Chatfield teaches a computer-readable recording medium storing a program for causing a computer to implement the method as set forth in claim 1 (See [0065]-[0066] with respect to citations and reasons stated by the Examiner in response to claim 1).

Regarding claim 35, Chatfield teaches a network system structured by having a plurality of the content selection requesting stations as set forth in claim 29, and a plurality of the content providing stations as set forth in claim 30, and by using the method as set forth in claim 1 (See end-users 103-106 and service providers 107-109 in [0022] with respect to citations and reasons stated by the Examiner in response to claim 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

8. Claims 5, 6, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chatfield.

Regarding claims 5 and 6, Chatfield teaches that a service provider 107-109 stores the selection request(s) of end users 103-106 received via an open access network 101, but is silent to mention how long the data is stored (Please refer to the reasons and citations made by the Examiner in response to claim 4). However, Official Notice is taken that both the concept and advantage of deleting an inactive user's account comprising their transaction history was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in the Chatfield for the benefit of maintaining the records of valuable customers.

Regarding claim 32, Chatfield teaches the content switching instruction device as set forth in claim 31, the content switching instruction device transmitting the content switching instruction given by the operator. Chatfield is silent to mention that the switching instruction is transmitted without using the content selection requesting station. However, Official Notice is taken that both the concept and advantage of transmitting signals to a workstation over a local area network (LAN) was notoriously well known and expected in the art, at the time of the invention, and therefore would have been obvious to incorporate in the Chatfield for the benefit of providing end users the spatial flexibility to transmit signals from other computing devices on a network as desired by Chatfield in [0068].

Regarding claim 25, Chatfield teaches of the method as set forth in claim 1, wherein:

the content selection requesting station includes means which controls switching of the external connection device for the display device on which the content received by the content selection requesting station is to be displayed (Please refer to Examiner's response to claim 32);

if the content selection requesting station is selected as an external connection device for a display device when the content selection requesting station receives the content selection request entered by the operator, the content selection requesting station performs content selection ([0032] and [0033]); and

if all contents are selected once, or if a station other than the content selection requesting station is selected as the external connection device for the display device, the switching of the external connection device is carried out (Please refer to Examiner's response to claim 32).

9. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chatfield in view of United States Patent Number, “6,269,394 B1”, invented by Kenner et al. (hereinafter referred to as “Kenner”).

Regarding claim 27,

Chatfield teaches a content selection method in which in accordance with a request from a content selection requesting station ([0032], [0033]), a content providing station sends back a content that the content providing station has ([0033]), the method comprising the steps of: the content providing station storing a control signal (e.g. channel change request from a user) for the content that the content providing station has ([0033]).

Chatfield is silent to mention the step of: if a content to send back is not available for viewing, the content providing station transmitting the control signal to the content so as to cause the content to be available for viewing.

However, in related art, Kenner discloses a system and method for delivery of video and data over a computer network. Kenner teaches that a user terminal sends a user's request for video or data to the Primary Index Manager (PIM) via a Search and Retrieval Unit (SRU) ([Col. 8, L55-L67]). The PIM determines whether the user has access to a copy of the requested video or data locally and further determines a local copy is the current version ([Col. 25, L44 to Col. 26, L16]). If the requested video or data is locally unavailable, unavailable from the PIM, or the incorrect version, the PIM sends a control signal to other Index Managers (IM) to locate and make said video or data available for download to the user ([Col. 25, L44 to Col. 26, L16]). It would have been obvious for one skilled in the art, at the time of the invention, to use the system and method for retrieving the current version of said video or data taught by Kenner in a service provider's head end taught by Chatfield. Using the known technique of locating, retrieving, and updating said video or data for fulfilling a end user's 103-106 content selection request would have been obvious to one of ordinary skill.

Regarding claim 28, a content selection method in which in accordance with a request from a content selection requesting station, a content providing station sends back a content that the content providing station has, the method comprising the steps of:

the content providing station storing a control signal (e.g. channel change request from a user) for the content that the content providing station has ([0033]); and

when a content to send back is changed from a first content (i.e. “incorrect version”) to a second content (“current version”), the content providing station transmitting a control signal to the first content so as to cause the first content to be not in use (Please refer to the remarks made by the Examiner in response to claim 27) is taught by the combined teaching of Chatfield and Kenner.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chatfield in view of United States Patent Application Number, “US 2005/0114445 A1”, invented by Tracton et al. (hereinafter referred to as “Tracton”).

Regarding claim 15,

Chatfield is silent on the method as set forth in claim 2, comprising the step of: in the case where bandwidth available for communication between the content selection requesting station and the content providing station is narrower than bandwidth necessary for transmitting a content that the content providing station is about to send back, the content providing station transmitting a content that is to be selected next to the content that the content providing station is about to send back, in accordance with the a predetermined content selection rule.

However, in related art, Tracton discloses a system and method for dynamic content customization in a client server environment. In this system, a client transmits to a server its characteristic profile indicating its available computing resources and network bandwidth [0025]. Tracton further teaches that content received over the web may be formatted and scaled to correspond to typical incoming client characteristics through the use of a scaler during a

communication session ([0025], [0032], [0044]). It would have been obvious for one skilled in the art, at the time of the invention, to use the system and method for dynamic customization of content based upon a client's processing abilities and network bandwidth taught by Tracton in a service provider's head end taught by Chatfield. Using the known technique of automatically scaling web content according to a client's processing abilities and network bandwidth said video or data for fulfilling a content selection request from a processing or bandwidth limited end user would have been obvious to one of ordinary skill.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wang et al. (U.S. Patent Application Number US 2003/0174648 A1) discloses a method of removing a client's account history from a distribution server upon confirmation of logoff.

Contact

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett Rustemeyer whose telephone number is (571) 270-1849. The examiner can normally be reached on Mon. - Thurs. 6:30 a.m.-5 p.m. EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2623

/BR/
March 17th, 2007